XD-ABE-159-A

INSTITUTE FOR LIBERTY AND DEMOCRACY

Cooperative Agreement with U.S. Agency for International Development

THRESHOLD EVALUATION

Final Report

Truitt Enterprises, Inc.

under contract with USAID/Peru

March, 1992

XD-ABE-159-A

INSTITUTE FOR LIBERTY AND DEMOCRACY

Cooperative Agreement with U.S. Agency for International Development

THRESHOLD EVALUATION

Final Report

Truitt Enterprises, Inc.

under contract with USAID/Peru

March, 1992

CONTENTS

	page
1 - EXECUTIVE SUMMARY	1
2 - INTRODUCTION	6
3 - EVALUATION	7
3.1 - **PROGRAM IMPACT**	7
3.1.1 - National Programs	7
3.1.2 - International Programs	10
3.1.3 - Gender Considerations	13
3.2 - **PROGRAM MANAGEMENT**	13
3.2.1 - Fulfillment of Plans	14
3.2.2 - Role as Generator and Implementor of Ideas	16
3.2.3.-.Institutionalization	17
3.2.4 - Allocation of Resources	19
3.2.5 - Organizational Structure	19
3.2.6 - USAID/ILD Relations	21
3.2.7 - Personnel Policy	22
3.2.8 - Purchasing	23
3.3 - **FINANCIAL MANAGEMENT**	23
3.3.1 - Diversification of Funds	23
3.3.2 - Compliance with Covenants	24
3.3.3 - Cash Flow	26
3.3.4 - Accounting System	26
3.3.5 - Working Capital	27
4 - REVIEW OF PLANS	28
4.1 - **PLANS FOR ONE AND THREE YEARS**	28
4.2 - **FOLLOW-UP**	29
5 - RECOMMENDATIONS	31
5.1 - **ACTIONS TO RESOLVE THE PRINCIPAL PROBLEMS**	31
5.1.1 - International Technical Assistance	31
5.1.2 - National Operations	32
5.2 - **OTHER RECOMMENDATIONS**	34
5.2.1 - Market Integration of Informals	34
5.2.2 - Intellectual Contacts	34
5.2.3 - Institution Design	35
5.2.4 - Follow-up	36
5.3 - **GLOBAL RECOMMENDATION**	36
5.4 - **AMENDMENT OF THE COOPERATIVE AGREEMENT**	37

ANNEXES: I - SCOPE OF WORK
II - ILD PARADIGM
III - ONE- AND THREE-YEAR OBJECTIVES

1 - *EXECUTIVE SUMMARY*

Some of the results achieved by ILD over the first three years of its Cooperative Agreement with AID (1989-1991) are both quantifiable and significant. Under the Property Rights program, 40,000 real property titles have been processed in the new settlements of Metropolitan Lima, and another 18,000 are in processing. The Administrative Simplification Program has enabled some 70,000 businesses (their exact number is growing every day) to secure the legal rights that flow from registration. Recognizing the socio-economic value of these structural innovations, Peruvian Regional Governments and a dozen foreign countries have requested ILD's assistance in installing the two systems on a large scale.

The best-known achievements of ILD are only significant, not easily quantifiable. As part of this evaluation, we asked a former Mayor of Lima how he assessed the impact of ILD on Peru. His answer: "Hernando de Soto has modernized the developmental discourse in Peru." We also reviewed a large number of reports to assess the international impact of ILD. One of them quotes the U.S. Assistant Secretary of State for Inter-American Affairs as saying: "...a true revolutionary is someone who looks at an old reality with a fresh analysis and comes up with a bold and new approach. Hernando de Soto is an authentic Latin American revolutionary, not just in Peru, but throughout this hemisphere."

The two quotes represent public reaction well in two ways: they acknowledge excellence, and refer to the conceptual challenge that Hernando de Soto has articulated on behalf of liberty and democracy, rather than to the programs of the Institute of Liberty and Democracy.

The most notable achievements are, indeed, the morphology of the informal sector, and analysis of its repression by mercantilist forces. However, even amidst general applause, it is not a simple proposition to stay on that path. To be fully accepted, the message must be proven in practice. One of the findings of this evaluation is that ILD has come dangerously close to getting bogged down in the mechanics of implementing change. It cannot reform Peru, not to mention the hemisphere, going house-to-house. Every time it painstakingly clears away some of the red tape underbrush, the bureaucratic jungle begins to grow right back, as long as the basic institutions of government remain the same. ILD needs to keep its eye on the commanding heights.

For that reason, the most valuable function of ILD is that of a think tank. To conduct its research, it immerses itself

in the Peruvian reality which is representative of most developing countries. But the pilot projects which it organizes in the process, once they have proven their validity, must quickly be spun off. Towards that end, more emphasis needs to be put on designing self-financing into the model. Since 1989 the Property Registry in Lima has been providing titling services free. It is now experiencing difficulties in continuing, as the Ministry of Housing defaulted, in the usual manner, on four-fifths of the promised budgetary support. On the other hand, the business registry offices in Chiclayo, Arequipa, Piura, and Lima have taken in more than $ 2m in user fees since a year ago, and are thriving institutionally.

The ideas and concepts that the ILD think tank throws up do not always fall on fertile ground. The forces which it disputes are deeply entrenched. Peru's economy still is more mercantilistic than market-driven, its democratic form of government decidedly non-participatory. In consequence, ILD's third, most fundamental program, Democratization of Government Decisionmaking, shows the least measurable results. It challenges the established, centralized power structures. But it is not stymied, only diverted to the bases. In the course of this evaluation we asked the President of the RENOM Regional Government why ILD's demanding concepts of Democratic Decisionmaking made any sense to him (he was the first one to adopt them), considering the discomfort they entail for the governors. He said: "I have been a Mayor, and learned then that the lasting solution of problems is not the signing of documents and decrees, but to first gain consensus to openly do what the citizenry wants... That is what we want to spread, and that is why they have made me President of the National Coordinating Council of Regional Presidents. More than anything we have been discussing how to demonstrate efficiency of the Regional Governments instead of the traditional confrontation with the central government." Such leaders are more likely to be found where the political rubber hits the community road, not in the ministries in Lima. ILD's strategy of regionalizing its institutional reform effort is correct. It has perspectives: for political reasons of its own, Congress recently earmarked shares of taxes for regional governments, including a significant 20% of the sales tax.

Every time that another property title is issued, a business registered, or transparency of government accepted on the local level, confidence in the society's future grows a little. Much remains to be done, however. The state of internal revenue is a good indicator of how low the social consensus is in Peru. Not much more than 8% of GDP is collected in taxes, due to bad laws and worse compliance. The average among developing countries is 18%. Government will command more trust if reforms are carried out on more than a demonstration basis. To amplify the magnetic fields of its

ideas and model projects, ILD must combine them with strategies which can reach many minds quickly, and release resources far greater than its own. Therefore, advocacy of reforms is a vital service for ILD to perform.

The "cupola strategy" that ILD has pursued to get its proposals accepted has its rewards (mainly decrees), but also costs. Particularly during the last 18 months when its President was also serving as an adviser to the President of the Republic, ILD's public image became confused, according to most persons we interviewed. A barometer of the public attention that ILD attracts are press clippings. Mentions of ILD's programs in the press have been at very significant levels, especially in 1989 (800) and 1990 (928), fewer in 1991 (652). Over the long run, ILD will be better off presenting a sparklingly clear image as an independent reform formulator and promotor. It should be able to tackle such important but delicate issues as corruption and human rights. That is also the conclusion emerging from ILD's internal meetings and international conferences. When polled in January, 1992, of ILD's 75 employees 87% thought that in the future the institute will be very important intellectually on the national scene (66% internationally), and 75% gave that rating to its impact on the national political scene (29% internationally).

A question related to ILD's capacity for advocacy is that of diversification of funding. The Cooperative Agreement between AID and ILD calls for a gradual increase in the share of non-AID funds to 65% of the total budget by 1994-95. Indeed, ILD has been able to hold up its end of that bargain so far. That is another indicator of its merit. Two questions flow from this evaluation in that regard: will such other support at such levels change the content of ILD's activities? will other sponsors stand as firmly as the United States government behind advocacy of democratic reform and market economy?

In the opinion of the evaluation team, there is no compelling need for the budget of ILD's think tank function to grow beyond present levels except to compensate for inflation and allow modest increments in internal opportunities and compensation as the institution matures (ILD does need to strengthen its high middle echelon). Better ideas are not necessarily a function of more staff; the opposite could be argued. Significant growth should occur in domestic field operations. The greatest growth is possible in the international application of ILD concepts. But first organizational and personnel matters must be attended to.

ILD's international activities have reached a point where management review is indicated. On the one hand, ILD's responsiveness to the first calls of the international community has created personnel problems. Only seasoned profes-

sionals can provide technical assistance and training abroad, but they also are the grey matter that accounts for the quality of research at home. On the other hand, the specific requests for international cooperation already exceed availability of personnel, so that response to some has had to be postponed. Accordingly, one of the major recommendations of this evaluation is to restructure ILD's international operations. An affiliate should be established over a period of time, but beginning immediately (ILD's management has been moving in this direction already). Initial short-term lending of ILD staff using external resources would make possible short-term hiring of replacements, training up a larger number of field grade professionals in the process. ILD would also gain funds: the executives of its international affiliate would be paid out of overhead collections, and technology transfer fees would be realized.

Such change should be reflected in an Amendment to the Cooperative Agreement, along with some other changes recommended below. In this connection, it will be helpful that a healthy relationship between the Mission and ILD has developed, after a rocky start in 1989. Flexible but persistent urging to improve ILD administrative standards has produced results. Among them are manuals of personnel policies and administration, and a sophisticated computerized accounting and budgeting system. With these tools, sound growth, accountability, and flexibility will be more easily possible in the future.

The evaluation team was retained to write a Threshold Evaluation Report. What do we see standing on the threshold which is the half-way point of the Cooperative Agreement? We recommend that:

> AID commit funds to continue the cooperation at the planned levels. There is no question in our minds but that ILD's performance to-date and its plans for the future merit such support. Additionally, that AID establish a Targets of Opportunity Fund at the level of $ 100,000 p.a. to strengthen ILD's capacity for timely advocacy.

> ILD continue its internal effort to clearly define its identity. We recommend that ILD should above all be a serious institution of research and a public advocate of reforms. Its domestic field operations are not at all incompatible with that, provided that they concern themselves with the strategic issues of democratic institutional reform, spinning off each pilot operation quickly, having given due emphasis to self-financing and decentralization in the initial design.

> An international affiliate of ILD be established gradually but starting in mid-1992. Separation of international outreach will make possible its substantial expan-

sion. At the same time, freed funds should be used to add a few high-level professionals, particularly economists, and train short-term field grade personnel on the job in order to increase the pool of trained personnel.

> While administration has improved, ILD still needs to accumulate working capital to avoid fund shortages and borrowing. A special campaign should be planned and executed to obtain $ 100,000 for that purpose.

> Research plans should consider investigating some uncharted territories. Among these should be a new perspective of the bureaucracy. Perhaps the rank and file should not be looked at as "them" but as mimicried informals on government dole, eager to do better in privatized government services. Similarly, ILD's creative minds ought to look beyond removing legal obstacles barring access to formality. In the absence of a true market economy, existing formal institutional arrangements are not always usable in the perception of those emerging from informality. This concerns, e.g., channels of access to credit and markets, and all sorts of realiable and understandable information. Creating alternate transaction channels by repositioning economic agents should be considered.

2 - *INTRODUCTION*

This report on the Threshold Evaluation of the Institute for Liberty and Democracy (ILD) was prepared in early 1992 by a team of TRUITT ENTERPRISES, INC. (TEI). The members of the team were the following:

George A. Truitt (chief of party), economist, 26 days.
Pedro de las Casas G. (administration & finance), economist, 12 days.
Bruno Podestà S. (programming), sociologist, 15 days.
Shoschana Zusman T. (legal), lawyer, 9 days.

This final version of the report in English was preceded by two drafts in Spanish. On 64 pages and in six annexes the drafts presented more material which was then edited down. The patient reader may wish to refer to the drafts. All three versions presuppose some familiarity with ILD. Uninitiated readers may wish to refer to the front parts of the prior evaluation report (ILD: Assessment Report for the First Year of the Cooperative Agreement with the U.S. Agency for International Development, Ernst & Young, March 1990).

The methods which were used included consultations with members of the AID Mission in Lima; numerous briefings and follow-up consultations with the Research Circles and other Departments of ILD; review of abundant reports and plans provided by ILD and USAID; visits to the Property Registry in Lima and the Regional Government in Chiclayo; participation in the public hearings which presented the arbitration project; consultations with other organizations and persons knowledgeable about ILD's impact, in Peru and in the United States.

We gratefully acknowledge the indefatigable assistance that we received from ILD's Research Coordinator and USAID's Project Coordinator.

USAID/Peru had contracted with TEI "to assess the progress made toward meeting the described purpose, goals, and objectives established in the Cooperative Agreement and the annual implementation plans. From this evaluation, and subject to the availability of funds, A.I.D. and ILD will set forth mutually acceptable goals, timetables, performance indicators and budgets for the activities and programs to be carried out during the remaining years of the Cooperative Agreement." (See Annex I for the Scope of Work.)

We made every effort to comply with this charge, and hope that the report will be useful in charting a course which would enable ILD to fulfil the great expectations to which its past performance gives rise.

3 - *EVALUATION*

3.1 - PROGRAM IMPACT

Evaluation of the impact of ILD's programs during 1989-1991 has to be overwhelmingly positive. The evidence that has been collected shows significant measurable results. Moreover, perhaps even more significant is the indirect, demonstration effect that these programs have had on the thinking and actions of Peruvians and leaders in a number of foreign countries. Testimony to that effect is amply available from the press in thousands of clippings collected by ILD's Documentation Center and in statements and actions of government leaders.

Not surprisingly, the programs that have the least quantifiable results are those that go to the core of the deficiencies of the existing centralized power structures. Public advocacy of needed structural reforms needs to be strengthened.

3.1.1 - National Programs

Property Rights

In the mid-1980s ILD had developed the concept of simplified property registries for the new urban settlements and the countryside. It converts into titled proprietorship the possession of government lands and of the structures erected upon them. Legally valid property rights would, it was felt, help integrate these populations into the mainstream, and give them access to contingent rights such as credit and title insurance. The existing registry operated by the National Office of Public Records had proved to be woefully inadequate for the task, taking as long as 10 to 20 years to register a title.

After a lively public advocacy campaign analyzing the costs and benefits of the respective systems, ILD's proposal to establish "Property Rights for Informal Settlements and the Popular Mortgage" became law through Decree-Laws 495 and 496.

The Real Property Registry began operations in Lima in January, 1990. It features an imaginative computer graphics program which serves as instant document locator, and a greatly simplified application procedure. Taking about 10 minutes to receive an application, and 3-4 months to issue a certificate of registration and title, it issued 32,000 titles that year, and 8,000 more in 1991. Another 18,000 are in processing. The Public Records Office, employing a much larger staff, accomplished less in some 50 years of its existence.

According to leaders interviewed in the new settlements, the value of registered properties exceeds comparable unregistered ones 9:1. In retrospect, it seems that it was a mistake (made by the government) to launch the registry as a free service (now a modest fee is being charged). Operations slowed down in 1991 as the Housing Ministry failed to deliver four-fifths of the agreed budget. Half of the employees left, and equipment was not maintained. That explains the decline in 1991 of issued titles and the high number of pending applications. ILD estimates the number of potential beneficiaries at over half-a-million in Lima alone.

The innovation was received by the press with enthusiasm. In 1989, 56 clippings were registered (ranging from cartoons to lengthy interviews), 199 in 1990, and 62 in 1991. ILD distributed 15,000 brochures "Property Registry - Land of Owners" and "Democratization of Credit through Popular Mortgage."

The model was also extended by the government to rural properties (Supreme Decree 026-90-VC and Decree-Law 667). It became the keystone of the "Fujimori Doctrine" to substitute alternate crops for coca.

ILD signed Cooperation Agreements to install property registries in the Regions of Grau, RENOM, and Arequipa. The Municipality of Lima changed its registration of buildings and factories in similar ways; as did the central government with regard to rents and tenancy.

During 1990-1991, 240 loans were approved on the basis of the Popular Mortgage by 19 banks and S & Ls. It is interesting to note that 77% of the loan applications came from women. Another 200 loans were approved by the National Construction Enterprise simply on the basis of property registration (and another 500 are in processing by that government housing authority). ILD should analyze more the causes of the limited lending by private financial institutions. Certainly they include the externalities of the national economy (high and variable inflation, unpredictable interest rates). Interviews indicate demand is low as well. That may have to do with a mismatch between the informals' ways and the formal credit system, and even psychological barriers (traditional Spanish commitment to land, preference for chattel mortgages instead). Informals buy on credit from electric appliance stores without collateral. Those interviewed in Lima and Chiclayo said they valued their new titles mainly as signifying legal security of their properties, not so much a way to gain access to credit.

Arbitration

Given the inefficiency and corruption prevailing in the formal Peruvian courts of law, ILD proposed in February, 1992 the establishment of an alternate system of justice by arbitration. The proposal is based on research on the informal systems of justice in force in the

new settlements. Of those interviewed, 63% said that they never had sought recourse to courts, and 70% stated that they approved of the ways in which the community itself adjudicated disputes. Also studied had been the ever-growing uses of arbitration in developed countries. The draft bill would apply to all citizens, offering them a simplified procedure as independent of the judiciary as possible.

The proposed bill contains a number of interesting legal innovations, such as mediation, single instance, and rapid enforcement. Provision for international arbitration follows, properly, the UNCITRAL model.

Simultaneously, a similar bill was being prepared by a Senator. By submitting its proposal to three well-attended public hearings, ILD made a contribution to democratization of government decisions. In comparison, the ensuing dispute of "paternity" seems of little consequence, given that the basic principles of arbitration are well established internationally already.

Democratization of Government Decisions

This program strives to democratize the processes by which government creates norms and makes other decisions. Channels for citizen participation are created to press for transparency, feedback, and accountability in government.

In a poll conducted by the Apoyo company, 78% of those interviewed considered ILD's proposal "positive for the country." A plurality of 43% preferred it over an alternate, less rigorous proposal offered by the government. Press comments were 7 in 1989, 230 in 1990, and 372 in 1991. ILD press releases were reported in Lima, Arequipa, Chiclayo, Tacna and Cuzco. Public hearings were held in those same cities plus Trujillo and Iquitos, yielding over 400 comments from participants.

In the RENOM region (Chiclayo) ILD's proposals were embodied in a Regional Executive Decree. Work has begun there with Irrigiation Committees to resolve a water dispute. Otherwise, measurable results have not at all been commensurate with public acceptance of the concept.

Of all ILD programs, Democratization of Government Decisionmaking is the most difficult, and at the same time, the most important one. This is because it challenges the traditional centralized power structure. Consequently, it probably cannot make much headway using the "cupola strategy." Correctly, ILD has decided to focus on the regional level. It also needs to become more of a widely perceived attainable need. Public advocacy should be stepped up further and stress jugular-vein topics such as corruption in government and human rights, going down to the more malleable level of Peru's 1,200 municipalities. Not a small task, unless it can be tackled wholesale through regional government.

Administrative Simplification

This program undertakes to do away with the elaborate procedures and cumbersome mechanisms of bureaucracy. Its motto is "the shortest distance between two points is a straight line which joins them." Its goals reach as far as deregulation.

Being trapped in red tape is a nightmare experienced daily by most Peruvians. Consequently, response has been strong, especially at first. The press commented on ILD's Administrative Simplification proposals at the rate of 737 in 1989, 499 in 1990, and 218 in 1991.

ILD's proposal of a unified business registry became law, together with a Supreme Decree on "Regulation Concerning the Unification and Registration of Formal Enterprises". In the Regions where registries have been established (Lima, RENOM, Arequipa, Grau) polls and journalists qualified it as the most important success of the year. In the Jaén sub-region, 14 provinces agreed to issue modifying Ordinances and receive the service through a new registry in Jaén. ILD had sent 100,000 posters to the provinces, and obtained significant television coverage. The latter included ten sessions of the "Administrative Simplification Tribunal" which were presided over by the President of the Republic who made 200 on-the-spot decisions. Over 28 months ending in January, 1992, 1,189 written denunciations were received. The concept of administrative simplification gave rise to another 20 norms of various levels, and another 184 norms in part.

Informal businessmen flocked to the registries. In Lima, average monthly inscriptions rose from 1,500 to 4,500; in RENOM, from 75 to 362. By February, 1992, over $ 2m was collected in user fees ($ 30 per registration, or some 70,000 businesses in total). In Chiclayo alone income exceeded expenses by $ 91,580 at 12/31/91.

3.1.2 - <u>International Programs</u>

The Cooperative Agreement between AID and ILD stipulates that its purpose is "to assist the ... ILD in the implementation of an international outreach, research dissemination, and training program, the expansion of these activities throughout Latin America and the Caribbean (LAC), and the strengthening of ILD's policy development and implementation capacity."

The reality encountered during this evaluation is that ILD's deep Peruvian roots have put strong emphasis on policy development and application in Peru (which has had significant resonance abroad on the policy level), and its personnel resources have been too limited to permit large-scale international outreach (in terms of operations which would apply ILD

policies in practice). In the opinion of the evaluation team, ILD should continue to put top priority on the quality and scope of its research, lest it lose its excellence and become just another plain vanilla international organization. To comply fully with the Cooperative Agreement as cited above, it will be necessary to set up an affiliate for international operations, as will be discussed in later sections of this report, particularly 5.1.1.

Nevertheless, ILD has been quite active on the international scene. It has followed an effective pattern:

> ILD's paradigm (see Annex II) has been presented to the international community in the book "The Other Path" first published in Spanish in 1987. Each time that it has been published in another language, the circle of opinion leaders excited by its message grew. Such has been the reaction to the English edition in 1989, and later editions in Polish, Swedish, Portuguese, and Bahasa. In 1992 it is scheduled to appear in French and German, and translations into Swahili, Russian, and Japanese are under discussion.

> The book's principal author, Hernando de Soto, then receives speaking invitations (in 1991, he made 14 trips abroad). In turn, the visits result in requests for sustained cooperation.

> Follow-up begins by extending invitations to come to Lima to participate in a week-long structured orientation program. Between March and December, 1990 ILD hosted delegations from Guatemala (3 participants), Bolivia (1), Kenya (4), El Salvador (6), Philippines (7), U.S.-IRIS (3), South Africa (60), and Sri Lanka (2). In 1991, there were visitors from Honduras, Guatemala, Cameroon, and Nicaragua. The visitors are usually vice ministers, decentralized agency heads, academicians, and businessmen. What they learn, ILD says, is to "understand ILD's language."

> The visits to the "informality laboratory" which ILD is sometimes lead to the establishment of sister organizations abroad. They now exist in El Salvador, Guatemala, Bolivia, and Venezuela.

> If they can find financing, these and other groups solicit ILD's technical assistance. Short-term training in Lima is not sufficient for them to start on their own (ILD management considers that it takes 6-12 months to train a professional in ILD techniques). Requests for technical assistance have been received from El Salvador, Honduras, Nicaragua, Panama, Guatemala, Bolivia, Sri Lanka, Indonesia, and Cameroon. They concern property registry and administrative simplification.

It may be concluded, then, that the four-step method outlined above has been effective in defining international effective demand for ILD services. That more programs have not been launched is due to ILD's internal limitations as regards organization and personnel policy.

Technical Assistance

The first technical assistance contract was signed in early 1990, with the Government of El Salvador. A budget of $ 250,000 was provided by USAID to install a Social Property Registry and elaborate plans for administrative simplification and democratization of decisionmaking. However, due to security conditions the work did not begin until March, 1991. It was followed in January, 1992 by a second contract in that country, directly with USAID, to continue the work during 1992 with a budget of $ 253,000.

In December, 1991 a contract was signed with the Honduran Private Business Council to install, over nine months, administrative simplification procedures in exports and imports, i.a. Funds of $ 150,000 were provided by USAID.

In accordance with instructions of the USAIDs, no overhead charges were budgeted in El Salvador; and 15% in Honduras.

The major interest of foreign entities is in the property registry. Its sales appeal is in its stunning computer graphics, and in the political stabilization that it ushers in. Democratization of government decisionmaking has had no takers so far. In most of the cases where technical assistance agreements are pending, the problem has been on ILD's side: lack of transferable personnel.

An exception is Nicaragua where an agreement in principle was signed in July, 1991 but a technical assistance contract to implant the real property registry has been delayed by the government of Nicaragua. It needs to settle first a disagreement with the Sandinista opposition over properties distributed by the previous Sandinista government to its followers.

ILD expects to start operations soon in Panama and Indonesia.

ILD Newsletter

Between April, 1990 and May, 1991 ILD published five issues of its eight-page newsletter entitled "Instituto Libertad y Democracia (ILD): Institutions for Democratic Transition to Market-Oriented Development." In 250 copies in Spanish and 550 in English, the newsletter gave information on action programs of ILD in Peru and El Salvador, and its international conferences. There is no evidence of significant impact. Publication was suspended as of June, 1991.

ILD plans to resume publication in 1992 when editorial review of its audience and contents has been completed.

Conferences

In January, 1991 ILD held its first Annual Program Review Conference. Approximately 200 participants met in Washington, DC, heard presentations by ILD executives, and discussed them. The high level of participants from U.S. government, international organizations, major think tanks, and the press is an indicator of the respect that ILD enjoys. One participant said later that the conference was a decisive element in his donation of $ 150,000 to ILD for fundraising. World Bank participants later arranged a meeting for ILD's President with their President. This has led to an earmarking of Japanese grant funds administered by the World Bank, for ILD's rural property registry program in Peru.

The conference was followed by a day of internal reviews of ILD's research programs with invited U.S. consultants.

3.1.3 - Gender Considerations

On the initiative of AID, ILD contracted in August, 1991 a team of four consultants to "evaluate the level of incorporation and effective participiption of women." Research by polling has been underway in new settlements in Lima where ILD has been active. They were to present their final findings in early 1992.

A gender perspective could enrich ILD's programs, given the specialized roles that women and men play in informal communities. The present inquiry, carried out at the rather disproportionate cost of $ 50,000, may serve as a benchmark. In the future, however, gender considerations will need to be integrated more into the work of the Research Circles which have viewed the "WID Project" (Women in Development) as work external to their own.

3.2 - PROGRAM MANAGEMENT

ILD' top management consists of the President, General Manager, and supporting staff.

Operating management is divided into Research, Field Operations, Administration, and Human Resources. Key line activities are carried out by four Research Circles, and the National and International Operations sections.

The evaluation found an exceptionally high degree of motivation at all levels. The Institute is a creation of its President who continues to be its main intellectual driving force. Consequently, daily activities are dependent on his decisions to an unusual degree. In the opinion of the evaluators, that is the best available option.

3.2.1 - Fulfillment of Plans

Property Rights

1989-1990:

> The first objective of the Circle was to put into operation the project of Legal Security and Access to Credit. This was amply accomplished when the first urban Real Property Registry became operational in January, 1990 after parallel registration of informal real property became law.

> The second objective was to extend informal urban real property registration nationally. This was not accomplished for lack of funds and due to the requirement of first making agreements with Regional governments (however, on both counts some progress was made in 1992).

> The third objective called for legally creating a Rural Real Property Registry. That was accomplished in September, 1990.

> The fourth objective of creating a unified collateral registry was implemented only to the level of studies.

1990-1991:

> The plan called for the physical installation of three more zonal property registry offices in Lima. Government funds were not available to do that. However, the target of registering 35,000 lots was exceeded nevertheless.

> As planned, 27 functionaries of the registries were trained. The functioning of the Registry was monitored. However, the target of designing a self-financing feature for the Registry was not attained.

> Available funds were still insufficient to extend the urban Registry nationally.

> As regards Rural Registry, only 230 families benefited.

> As planned, research was extended to cover coca growing areas with an eye on crop substitution. The most significant result was that 180 leaders of coca grower associations signed up for the property registry program.

Arbitration

The goals were attained during the period of October, 1990 through February, 1992. A draft Bill was published, press conferences wer held, a publicity campaign was carried out, and three public hearings were held.

Democratization of Government Decisionmaking

In general, the objectives of research, draft Bill, and publicity were attained. However, training based on manuals and courses was cancelled due to political opposition. The strategy had been to rely on the President (then Alan García). He did request authority from the House of Representatives to promulgate such a Law, but the authority was denied.

The new (Fujimori) Government proposed an ILD-inspired but watered-down norm. It left it to the discretion of the Council of Ministers to decide which norms should be governed by the new Law.

Consequently, ILD revised its streategy to "start from the bases". It will work with the Regional governments, taking up such localized problems as water distribution.

Administrative Simplification

The objectives had been stated in 1989 in a rather general manner, but the accomplishments have been quite specific:

Legal Norms:

> Law of Adiministrative Simplification was promulgated.

> Unified Business Registry was created.

> Altogether 17 bills were presented to President Fujimori. However, only four have been promulgated.

> Four Regional Executive Decrees were issued.

> Regulations implementing the Law of Administrative Simplifactions were approved, and later amended.

> A Supreme Decree was promulgated establishing the Unified Registry in Lima as a pilot project, and funding was approved by the Legislature.

> A Supreme Decree was signed concerning reprieve for the accused.

> Four Mayor's Decrees were issued approving Administrative Simplification. Another 184 norms referred to or were based on it.

An element which is missing from the program is research on the subject of Peruvian bureaucracy. It is important to note that ILD's Administrative Aimplification was not en-

trusted to a discrete entity, as ILD had proposed, but by law to the Public Administration Institute. Yet little has been done to ascertain the bureaucracy's response to this innovation, and how to work with it.

A related concern is training. Members of the Administrative Simplification Research Circle participated in as many as 230 meetings during 1990-1991 to promote the concept. But little of that amounted to adequate training of the future implementors. This may improve as manuals have been written, and agreements made with various institutions calling for training.

3.2.2 - Role as Generator and Implementor of Ideas

ILD was established in 1980 as an institution of research. Thanks to the exceptional perspicacy of its founder, Hernando de Soto, and the dedication of his collaborators, initial research produced a definition of informality which has enormous seminal potential. Published in 1987 in "El Otro Sendero" (The Other Path), ILD's doctrine was quickly recognized in Peru and abroad as a fundamental contribution to the theory of development. Its analysis of the Peruvian contemporary society as mercantilistic had resonance, identifying impediments to the establishment of democratic institutions and market economy.

Three successive Governments of Peru have sought ILD's assistance in putting into practice the reforms which it was propounding. ILD responded with enthusiasm. Going beyond research, it began to draft laws, organize presidential tribunals, install property registries, even formulate a program of coca substitution.

At the same time, ILD's cooperation with government has been by no means an orderly process. The more traditional-minded power-holders on all levels have been waging fierce resistance. Soon ILD's management faced a dilemma: its human and financial resources no longer seemed adequate to do both research and reform implementation.

To put the problem in perspective, one can draw comparison with the situation of comparable research institutes in contemporary Central Europe. In that region 1989 witnessed a moral and therefore total collapse of the established powerstructure. Thus the proponents of democratic institutions and market economy enjoy the support not only of the public, but also the new powerholders who absorb transformation-oriented research products faster than they can be produced. There has been no comparable political discontinuity in Peru, and ILD finds itself fighting for the republic surrounded by the king's soldiers.

ILD also has responded constructively to AID's call for sharing ideas and concepts with other developing countries. The commitments and pressures thus created also have been weighing heavily upon ILD's ability to maintain undiminished its basic function, research.

This evaluation found that the conflict among the three responsibilities--as researcher, as co-implementor of reforms in Peru, and as provider of technical assistance abroad--creates serious problems in the utilization of personnel, confuses the public image of the institute, and makes good management of resources difficult. What aggravates the problem is that both Peruvian and international leaders identify ILD with the person of its President. In consequence, Hernando de Soto, ILD's principal thinker, becomes involved in an excessive number of matters which pull him in opposite directions. His service as an adviser to the President of the Republic brought this situation to a head. His recent resignation from that post provides him and ILD with an opportunity to redefine what they consider the optimal identity of the institute.

ILD's managers are well aware that it is the research function that is the institute's foundation, and that its field programs must be restructured to give recognition to that priority. The objective of such restructuring should be to permit substantial expansion of field operations at home and abroad, but using such approaches as would leave undisturbed ILD's proper functioning as a research institution. TEI's recommendations to that effect are presented in Chapter 5.

3.2.3 - Institutionalization

Property Rights

ILD has been endeavoring to implant notions of modern market economy among the informals. However, concepts such as private property rights are still governed among informals more by traditional community rules. An example will illustrate the problem. In an interview, an informal community leader stated that when the registered owner of a lot left for what seemed too long, the Settlement Council decided to declare abandonment and adjudication to another. Such community vetos undermine the value of modern concepts such as mortgage.

Similar evidence of problem-resolution by the community was uncovered by ILD during research for the arbitration program. Indeed it may be that in time legally valid arbitration will take the place of traditional community decisionmaking. As of now, more research seems indicated on the meshing of communal and individual property rights, on the way to modernity. Very likely this will be even more important in the rural communities to which simplified property registration is to be extended.

Even more serious is the problem of registered properties which have been abandoned by one of the couple, not an infrequent occurrence. In those situations the lot, which had increased in value by registration, would become worthless by becoming intransferable. Recourse to the formal system of justice runs into the usual bottlenecks. ILD needs to seek alternate solutions.

Three real property registries had been planned for Lima, but only one is functioning in the center of the city. Most registrants have to travel a long way (fortunately, the registration takes only 10 minutes in the well-equipped office). The government had been unable to provide funds for the other two registries. Worse, it has been able to provide only $ 4,000/month instead of the budgeted $ 20,000/month for the central registry. Only token fees are charged to the users. Lack of resources beyond a minimum payroll makes impossible promotion in the new settlements. That is why new applications have been declining, although barely 10% have registered.

The National Office of Public Records appears not to accept the existence of the Real Property Registry, legal mandate notwithstanding. As a result, 14,817 new settlement titles are awaiting transfer to the Registry.

The twin problems--lack of funding and the jealousy of the bureaucracy--threaten the very existence of the Real Property Registry. To become institutionalized, it needs to collect enough user fees to finance its full-strength functioning. ILD also needs to find a better way to deal with the bureaucracy.

Administrative Simplification

In this program, efforts to spin off institutional arrangements have had mixed results.

The simplification Tribunal was deactivated by President García when his interest waned. When denunciations continued to come in they were referred to the National Public Administration Institute, an organization not renowned for its activism. Neither the tribunals nor the system of denunciations became institutionalized.

On the other hand, the Unified Business Registry is functioning on a sustainable basis not only in Lima but three other Regions as well, and municipalities have used it for business permits.

The Moralization campaign flourished briefly during the tenure of Education Minister Gloria Helfer. When she left, the campaign stopped.

The record shows the weaknesses of the "cupola strategy", and the merits of establishing institutions which finance themselves. The former approach gets attention from the press; the latter establishes institutions which last.

3.2.4 - Allocation of Resources

The sharing of ILD's human resources between its national and international programs has not been working satisfactorily. Basically, ILD personnel are assigned to domestic research and implementation. When the need arises in the international program, a staff members is borrowed and sent overseas. Inevitably, the dislocation suffered by domestic programs is greater than the gain accruing to the international program, since the discontinuity occurs in the latter as well.

As regards allocation of financial resources, ILD has used USAID/Peru resources to finance the bulk of its national programs, and to promote its international activities. The two activities have been commingled financially. International technical assistance programs have been financed from other sources, as have other domestic programs.

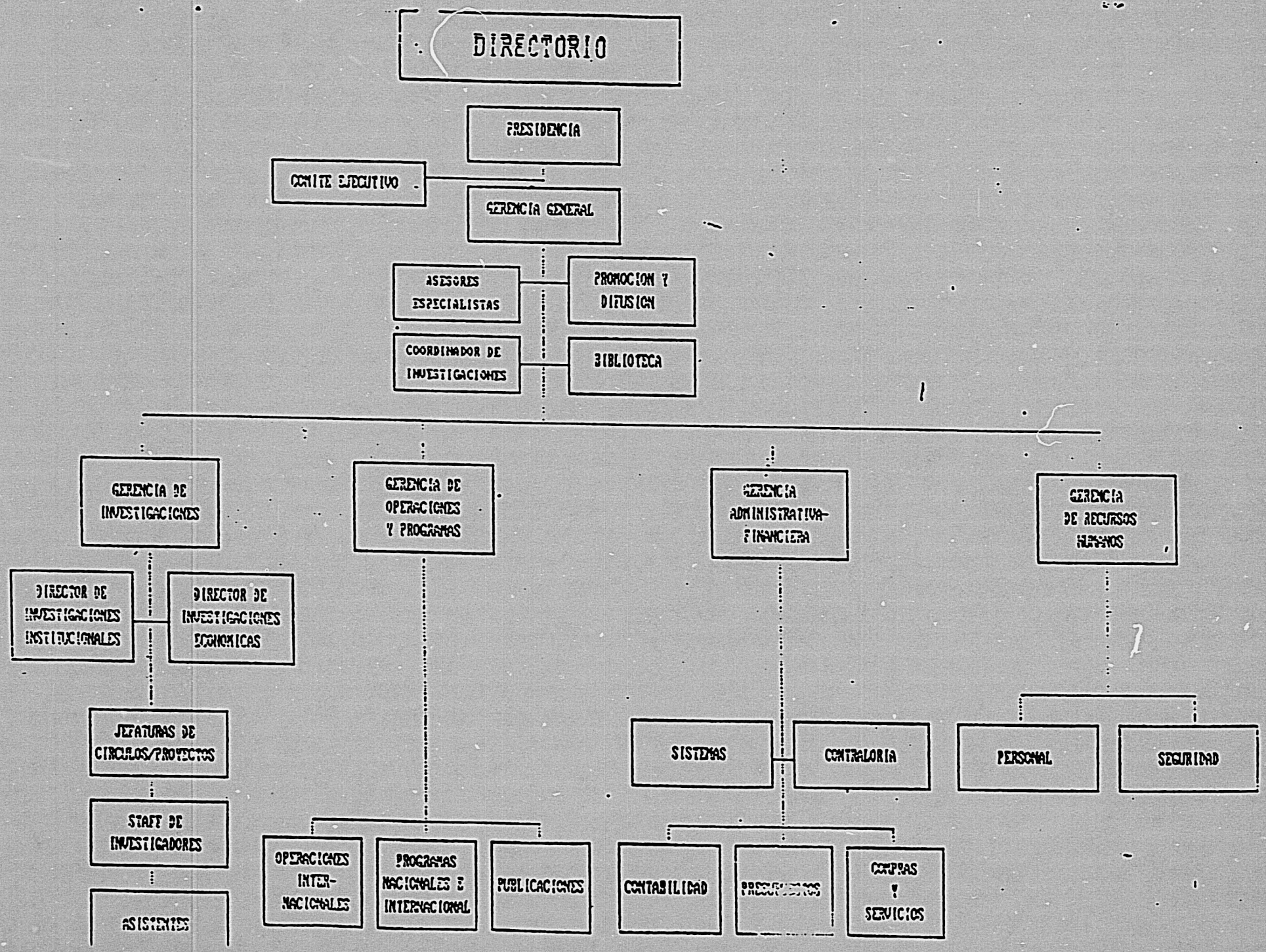
Contracts in El Salvador made no provision for overhead costs; the Honduran contract did at the level of 15% of direct costs. In both cases, USAID guidance was determining. If ILD is to develop an adequate international operation, it must provide it with its discrete base staff and logistics, and all international donors should contribute to its maintenance proportionally.

3.2.5 - Organizational Structure

Having undergone various modifications over time, the current table of organization of ILD is shown on the following page.

The Executive Committee seems to have been more of an advisory organ to the President in matters of personnel remuneration than an executive unit. Its membership and responsibilities are not defined.

Of the three top research positions, two are vacant. One of them, calling for a general Manager of Research, seems unnecessary. On the other hand, there is an urgent need to fill the position of Director of Economic Research. Working in coordination with the existing Director of Institutional Reserarch, he should fill the gaps in research which are discussed elsewhere in this report (mainly market institutions). Also, each Research Circle should have at least one economist. ILD staff indicated some resistance to the idea, considering that "economists just want to measure things". Nevertheless, economists are needed if ILD is not to be limited to just a politico-legal approach to reform which does not fully empower the informals to become active participants in market economy.


DIRECTORIO
PRESIDENCIA
COMITE EJECUTIVO
GERENCIA GENERAL
ASESORES ESPECIALISTAS
PROMOCION Y DIFUSION
COORDINADOR DE INVESTIGACIONES
BIBLIOTECA
GERENCIA DE INVESTIGACIONES
GERENCIA DE OPERACIONES Y PROGRAMAS
GERENCIA ADMINISTRATIVA-FINANCIERA
GERENCIA DE RECURSOS HUMANOS
DIRECTOR DE INVESTIGACIONES INSTITUCIONALES
DIRECTOR DE INVESTIGACIONES ECONOMICAS
JEFATURAS DE CIRCULOS/PROYECTOS
STAFF DE INVESTIGADORES
ASISTENTES
OPERACIONES INTER-NACIONALES
PROGRAMAS NACIONALES E INTERNACIONAL
PUBLICACIONES
SISTEMAS
CONTRALORIA
CONTABILIDAD
PRESUPUESTOS
COMPRAS Y SERVICIOS
PERSONAL
SEGURIDAD

Between February, 1990 and March, 1992 ILD employed a Director of International Programs who made a significant contribution in that field. Alternating between Washington and Lima, she had responsibility for foreign visitor training in Lima, development of international technical assistance programs, information dissemination (newsletter, international conference, magazine articles, translations of "The Other Path"), donor relations, and research in the U.S. As of March, 1992 her responsibilities will be divided between a U.S. free lance fundraiser (funded by a restricted private grant), and the International Programs and Operations Departments of ILD in Lima.

The merging of national and international responsibilities in one Department seems suboptimal, as does the separation of international marketing from operations. It is recommended to separate out in one unit (see 5.1.1 below) all international technical assistance operations (promotion and supervision). To maintain a Division of National Operations which would include the Promotion and Diffusion line unit (now in staff status). And to create a new External Relations Division consisting of Donor Relations, Publications, and the Documentation Center (library).

3.2.6 - USAID/ILD Relations

Interviews with those involved on both sides indicate that at times there were tensions in the relationship between ILD and USAID/Peru, mainly during the first year. USAID has to comply with the laws and regulations of the United States government which tend to be quite specific and detailed. ILD, on the other hand, operates in an unstable environment which does not tolerate rigid programming. While ILD considered certain USAID controls excessive, USAID deemed insufficient some of the controls maintained by ILD. In the opinion of the evaluators some of that is inevitable, given the different responsibilities of the parties, and from some points of view even desirable.

At any rate, an adequate *modus vivendi* has been developed. A review of documents such as amendments to the Cooperative Agreement and Implementation Letters indicates a sound working relationship. With persistence but also with much sensitivity USAID insisted on what it considered necessary; and ILD responded appropriately, providing ample information and requesting approvals, although at times with some delay.

Adding a Project Coordinator has worked out well. He monitors compliance with the Cooperative Agreement, serves as liaison, facilitates the flow of program information from ILD to USAID and administrative information in reverse; his participation has been particularly productive in the preparation of reports and financial documents.

It must be acknowledged that the smooth functioning of the office of Project Coordinator has been due to the alacrity of the incumbent who has been evaluated by USAID as trustworthy, dynamic, and good at interpersonal relationships. His interest in ILD's ideas has been reciprocated by good acceptance.

A noticeable improvement has been attained in the flow of funds (except in February, 1992 when reportedly computers went down in the payments office in Mexico).

3.2.7 - Personnel Policy

In the third quarter of 1991 ILD adopted a Manual of Personnel Policy, and in January, 1992 also manuals on hiring and on performance evaluation. These are important improvements which will serve ILD well.

Not entirely resolved remain payroll problems related to inflation. To protect employees against the high rates of inflation that Peru has been experiencing, the payroll has been dollarized. However, due to capital and illegal flows, the purchasing power parity of the dollar with the sol also differs substantially (5-40%) from the nominal exchange rate at times, in both directions. Recently, when the nominal exchange rate was shortchanging employees substantially, an equalization supplement was sought and obtained from USAID, for the period November, 1991 - March, 1992. This is a rough and ready measure, necessary to be sure, but also inequitable (the justifiable amounts change every month [but not the supplement], and the supplement is available only to middle and lower echelons).

The evaluators consider that it would be more appropriate for USAID to drawn down every month from the allocated global fund the amount of dollars necessary, after conversion into soles at the nominal rate, to finance ILD payroll in soles. The payroll would be fixed in constant soles, to protect employees against inflation. Therefore the amount in soles requested from USAID would increase every month by the rate of inflation. The dollar equivalent would very only by the amount of exchange rate distortion. Over time, the over- and under-valuations of the nominal exchange rate in comparison with the real inflation rate would offset each other to some degree. Unfortunately, the evaluators also had to agree with ILD administrators that keeping their books in soles would wreak havoc with their budgeting capability, as long as Peruvian inflation remains above negligible levels (it is 4%/month currently). The change to a soles payroll can only be made when the sol has been stabilized to a reasonable degree. Elimination of the exchange rate market failures will then be practicable. In the meantime, temporary dollar salary adjustments are the best available option.

Two provisions of the Personnel Policy Manual should be revised. One (Section VIII.16) which provides for salary bonuses for added responsibility and periods in travel status, features no limits (one employee currently receives 30%). A limit should be established (perhaps 15%), and the section should refer to internal travel only. Another (Section VIII.13) sets a limit of 15% for bonuses on overseas assignments. In the opinion of the evaluators, this is too low to motivate employees, and should be raised to 30%.

3.2.8 - Purchasing

ILD's annual budgets include provisions for purchases. In addition, ILD submits to USAID trimestrally a plan of acquisitions.

The purchasing manual and controls are satisfactory. Procedures have been established for acquisition of fixed assets, services, and purchases of materials to maintain optimal inventories.

3.3 - FINANCIAL MANAGEMENT

3.3.1 - Diversification of Funds

In accordance with the Cooperative Agreement, ILD is required to raise funds from other sources. The schedule (Amendment # 6) provides for progressive increases in the share of other funds. The planned and actual figures compare as follows:

Other Donor Funds

year	1	2	3	4	5	6
% target	22	28	35	49	55	65
K$ target	517	883	1,275	1,735	2,210	2,210
K$ raised	1,257	1,072	678			

The figures, as stated, indicate that so far, against a cumulative target of $ 2,675,000 ILD raised $ 3,007,000. However, they also indicate a declining aboslute amount received from other donors.

The first explanation is that for year 3 (ending April, 1992) ILD has been planning on an additional $ 550,000 of Japanese government funds administered by the World Bank to extend the Property Registry in Peru. The World Bank has confirmed to the evaluators that such is the intent, but that very likely it will be confirmed only during year 4.

The other reason is that contracts for international technical assistance, requested by foreign entities, have been deferred by ILD due to personnel limitations. If these can be overcome, the outlook will brighten.

To raise over $ 2m per year starting in year 5 will clearly require a major effort. ILD's fundraising plans focus on the following sources:

> Technical assistance contracts abroad (immediate prospects in Panama, Indonesia, Nicaragua).
> International organizations (a second tranche of Japanese/WB funds of $ 570,000 is under discussion).
> Corporations.
> Large foundations accustomed to providing institution-building support.

The question must be asked how such a substantial change in the composition of funding sources will affect the content of ILD's programming. Each donation brings with it a package of goals, preferences, and controls. Will the donors of 65% of ILD's funds be as firm as the United States government in backing such high-risk efforts as democratization of government decisions, and public advocacy of such reforms?

3.3.2 - Compliance with Covenants

Dedicated Bank Account

This covenant of the Cooperative Agreement requires that funds received under the Agreement be maintained in discrete bank accounts. ILD has complied by maintaining USAID funds in separate dollar and soles accounts.

At times it has been necessary to borrow funds from one donor account to replenish the balance of another. Usually, this was in favor of the USAID-earmarked accounts as transferences of funds from USAID lagged behind schedule. As improvement was achieved in the USAID cash flow, the frequency of such borrowing has decreased, but it still occurs. There is a need for working capital owned by ILD.

Bookkeeping

The covenant requires ILD to maintain books which would classify and summarize financial transactions related to expenses incurred under the Agreement. This has been done.

USAID has requested that trimestral financial statements be submitted in audited form, so as to discover discrepancies earlier than annually, and speed up annual settlements. This is

a good suggestion, in the opinion of the evaluating team. However, its value needs to be compared with the cost of such additional audits.

The recently installed accounting system permits presentation of reports by donor and by cost center. This will facilitate the presentation of reports to donors.

Financial Statements and Audits

According to the covenant, ILD's financial statements must be prepared in accordance with generally accepted accounting practices (GAAP) and audit standards (GAAS). The covenant also requires that external auditors verify whether ILD maintains adequate internal controls, financial and personnel management, as well as management structure, purchasing procedures, personnel policies and levels of compensation.

ILD retained the audit firm Alonso y Asociados, and they prepared the first audit report in June, 1990 (for 1989). The report discusses the March, 1990 evaluation report prepared by Ernst & Young. Since the audit reports for 1990 and 1991 are not yet available, what follows is an update on the status of the observations made by the auditors in mid-1990:

> Organizational changes have been made, and a personnel policy formalized.

> Activity reports continue to be semi-annual, since USAID did not accept the recommendation of annual reports.

> A Project Coordinator has been hired, and has been very useful.

> ILD has raised more funds from other donors than was required by the Cooperative Agreement (Amendment 6). Cash flow problems have been reduced by improved procedures and the work of the Project Coordinator, but not completely.

> Accounting recommendations have been carried out, except that an external fund accounting expert has not been engaged.

> The major failure to comply with covenants has been the lack of audited financial statements for 1990 which were due four months after the fiscal year's end. This is harmful to the image of ILD, particularly in fundraising. The reasons for the delay are several.

One reason is that USAID delayed until October, 1991 to approve the selection of auditors. Another reason is that it was in 1990 that ILD entered upon the design and implementation of a new accounting system by donor. Serious difficulties were encountered in both respects, and much work with the auditors was required to correct them. The most difficult problem to resolve was an accounts receivable amount of $ 58,174 from UNDP. That amount did not agree with the audited statements of UNDP. The reason was that UNDP was disbursing to ILD in dollars, but ILD received intis. The necessary correction (exchange rate loss and increase in advances received) are being made, and will be communicated to the external auditors.

> A final covenant problem is that ILD presents to USAID trimestral unaudited financial statements with considerable delay (e.g., those due in September, 1991 were presented in February, 1992). ILD Controller hesitates to prepare each statement until the previous one has been approved, since statements are prepared by donor. And USAID approvals have been slow in coming (e.g., the October, 1991 statement was approved in February, 1992. Apparently processing is slow due to the multiplicity of offices through which the document has to pass. USAID Financial Manager feels that shifts of disallowances can be made retroactively, hence late approvals should not delay statements. It is recommended that the latter position be accepted, since USAID agreed not to require that original vouchers accompany the statement (they will be verified *in situ* by USAID Project Coordinator instead). Also, minor disallowances may also be absorbed by unrestricted funds even on a current basis. At the same time, the delays that have been experienced in USAID seem excessive and should be reduced by the USAID Project Coordinator.

3.3.3 - Cash Flow

Cash flow problems were severe during the first year of the Cooperative Agreement, but have been overcome by and large, according to the Budget Department of ILD. ILD presents fund requests at least ten days before the first of each month, and funds usually arrive on time. (In 1991, the 9/10 request was honored on 10/1; 10/18 on 11/12; 11/20 on 12/11.)

In cases of substantial delay (as occurred in February, 1992), ILD Controller uses bank overdrafts. Since AID does not reimburse interest expenses, the cost is charged to unrestricted funds. The same is done with regard to the sales tax paid on AID-financed purchases, because of similar AID statutory restriction. If no such funds are available at that moment, AID cash is used against an accounts payable offset which is later liquidated.

Cash flow is facilitated by the trimestral cost estimates which ILD presents, which in turn have been made easier to calculate due to reduction in the rate of inflation.

3.3.4 - Accounting System

Introduction of a new accounting system--by donor--without the benefit of expert advice caused great difficulties which required great efforts to correct them. With a new ILD Controller and other staff on the scene in 1991, progress was made, but haltingly.

The presentation of the final, computerzied accounting system which was made to the evaluators in February, 1992 gave rise to much hope that at last a flexible and reliable system was at hand. It makes possible budgeting and accounting by donor and by cost center. It is evident that much hard work had gone into perfecting the accounting system, and that

the results inspire confidence. The outlook is for much smoother functioning. Indeed, unaudited financial statements for the period ending December 31, 1991 were then presented for AID accounts.

ILD has yet to define an audited overhead charge formula. It is urgent that this be done, so as to treat all donors equally, and be able to negotiate overseas contracts which would recover both direct and indirect costs. It is recommended that a guide be prepared to determine which costs are customarily attributable to operations, and which costs pertain to administration or expenses not easily distributable to certain defined operations. The new accounting system should then be used to accumulate experiential data which would serve as basis for calculating the ratio of overhead expenses to direct costs. The percentage charge would then be applied to all proposals to donors and contract sponsors, subject to annual audit and annual adjustment.

3.3.5 - Working Capital

Apart from the trimestral estimate of funds needed from USAID, ILD does not prepare cash flow projections. With the projected growth of funds from other sources, this may need to be supplemented by an all-encompassing twelve-months' cash flow budget adjusted monthly. It is recommended that this be done in order to reduce the cash flow problems that ILD has been experiencing.

In the world in which ILD operates, both as regards donors and the rhythm of operational expenses, the unexpected must be expected. For that reason, cash flow projections will not dispose of the cash availability problem. ILD needs working capital (it has none now, unrestricted donations are spent). It is recommended that ILD develop a special endowment campaign to establish a working capital fund of $ 100,000. Sources could be unrestricted donations, "friends of ILD" (solicitation of individuals for that purpose), sale of publications and training services, and a technology transfer charge collected on foreign contracts. Properly administered, the fund would grow further by interest earnings.

4 - *REVIEW OF PLANS*

4.1 - PLANS FOR ONE AND THREE YEARS

Action plans which have been prepared by the Research Circles and ILD Departments for the fourth year of the Cooperative Agreement, and for the second three years that begin that year, are presented in Annex III. Ongoing and additional national and international programs are discussed among each Circle's activities. What follows are the evaluators' comments on those plans.

Property Rights

The Circle set itself the goal of improving the functioning of the Real Property Registry in Lima by investment in fixed assets and working capital. It did not say how this is to be achieved. In view of the experience that has been made, it seems crucial that such additional financing be obtained from increasing the user fees from their present token levels. The Circle should have a plan for how to bring the Ministry of Housing, of which the Registry is a dependency, to the realization that increased fees are necessary.

Contingent on the outcome of that effort, promotion of the use of the Registry should be a function of the Registry, not of ILD directly. Conversely, if reliable financing cannot be assured, it would be counterproductive to promote greater use which the weakened registry could not handle.

ILD has found that there are some 30 uncoordinated chattel mortgage registries in Peru which create legal insecurity; and that often they do not accept items customarily used by rural folk such as machinery. Thus the plan to research the idea of a "popular chattel mortgage" seems promising. It should include, however, an examination of the nexus between the existing formal credit channels and the informals. Experience shows that in similar contexts the interaction was poor.

Arbitration

If the ILD proposal, or its equivalent, becomes law, dilligent follow-up will be necessary to institutionalize arbitration as a parallel system of justice. That should include field research, training of arbitrators, possible amendment of the legal norm, and user promotion. Attention will need to be paid to literacy and gender considerations.

Democratization of Government Decisionmaking

The plan foresees making the RENOM region a showcase to attract the other eleven regions. It should include training of the target groups to develop adequate methodology. Also, provision should be made for follow-up to obtain feedback and measurements of the program's impact.

Research will focus on the normative and decision-making processes of the informal sector. It would be desireable to include a gender perspective. This should not be done mechanistically by counting participation by gender, but by investigating the specialized roles that men and women play in social, economic, and political organizations.

Administrative Simplification

The stated goals do not adequately reflect the indications that have been received from Circle members to the effect that the program is progressing from simplification to deregulation.

Social conduct seems to be given less attention than judicial mechanics. The environmental theme does not seem to grow out of the previous three years' work of the Circle, and gender considerations are absent.

Goals state well the quantified objectives (e.g., in terms of 10 regions), but do not deal with the consolidation of what has been accomplished so far, except for revitalizing the Complaint System.

Technical Assistance Operations

The implementation of ILD's innovations by field operations both in Peru and abroad will benefit from the planned continuation of "industrializing ILD products". Training and procedural manuals will be of great help.

However, it is difficult to see how international technical assistance could function smoothly as long as it has to compete for the same personnel and core funds with the crucial domestic research and implementation efforts.

4.2 - FOOLOW-UP

Evaluation, follow-up, and control of projects and programs are of great importance to development institutions because they:

> Permit the generation of quantifiable information about the progress of the project.

> Provide feedback for research, implementation, and institutionalization, aiding in the adjustment of mechanisms, procedures and goals.

> Allow the measurement of project impact, and thus valuate the results to others (e.g., funding sources).

In the case of ILD, follow-up could make an important contribution. The institute has passed through two distinct periods of existence: 1980-1987 when it was fundamentally a research institution; and 1988-1991 which was a period of activism to implement reforms and advise Presidents of the Republic. Incorporation of follow-up techniques into the plan implementation process could sytematize ILD's institutional experience which was the subject of internal planning meetings held in Arica.

In practice, ILD has been evolving in this direction. In the first phase (1989 - February, 1990) only reports required by sponsors are prepared. In the second phase (February, 1990 - March, 1991), a member of each Circle describes results which have been achieved, without reference to any prior plan. The document is then critiqued by the Circle before a final version is prepared. In the third phase (since April, 1991), tables are prepared in meetings which record, in percentages, progress according to phases of the ILD Institutional Reform Process (from empirical observation to spin-off). The result is called Flow Chart.

It seems time to progress further to a follow-up system which would produce quantifiable information on the basis of solid indicators. Considering how much has been accomplished already, that would not be difficult nor expensive. Since ILD already practices management by objectives, such a system would be a useful management tool at all levels, and of course for fundraising.

The system should be designed by the Circles themselves, lest they consider it as an unacceptable tool of control. Its purpose would be to measure the impact of programs, going beyond press coverage and ILD's own activities. Response to the ILD message should be measured among target groups: high government functionaries, middle- and lower echelon bureaucracy, political and labor leaders, opinion makers, and intended beneficiaries among the informals. E.g., it would be useful to know the responsiveness of women to the posters ILD uses in the new settlements. They have quite a bit of text, and illiteracy among poor women can be as high as 70%.

The evaluators have presented to ILD drafts of follow-up charts that could be used to develop the system.

5 - *RECOMMENDATIONS*

5.1 - ACTIONS TO RESOLVE THE PRINCIPAL PROBLEMS

5.1.1 - International Technical Assistance

In order to expand ILD's capacity to apply its concepts and technologies in the foreign countries that may request such cooperation, it is recommended to restructure the international operations of the institute. This should be done in a manner which would protect and strengthen ILD as an institution of research.

Taking into account that ILD management already has opted for this course of action, it is further recommended to begin at once the restructuring justified in sections 3.2.1 and 3.2.2 above. At the same time, this should not lead to discontinuities in operations. Consequently, the change should be implemented gradually, taking each step after the previous one has been completed, as follows:

> Select name. Recommendation: ILD International (ILDI).

> Appoint an Executive Director and his Deputy, both preferably from experienced staff.

> While still merely a division of ILD, ILDI should take over contact with all potential new international partners.

> Review options for legal status, such as non-profit institution or consulting firm. Apply for the preferred status. Recommendation: non-profit organization.

> Sign additional international technical assistance contracts. They should include provision for recovering overhead costs of ILDI using a percentage formula for indirect:direct costs based on audited experience (20% initially). Also, a 15% of salaries charge for ILD technology transfer. As appropriate, USAID/Peru should certify to other USAIDs that these charges are not financed by it. Where AID funds are involved, counterpart national organizations should be encouraged to solicit a grant rather than contract for ILDI services, to maintain greater flexibility with regard to salaries which should include a 30% overseas service bonus.

> When ILDI has become a legal person, a long-term contract should be signed between it and ILD. Its provisions should call for seconding personnel to ILDI, with the latter

paying their salaries plus a 30% bonus, and another 15% to ILD for technology transfer. For 12 months after the legalization of ILDI, ILD would guarantee the administrative budget of ILDI, after prior approval. ILDI would also reimburse ILD for administrative support services such as accounting, purchasing, and communications.

> To the degree as operations may grow and with them overhead income without increasing the percentage, ILDI will acquire its own technical staff (in addition to the two supervisors). Availability of such in-house personnel would facilitate backstopping field teams and program promotion.

> Program promotion should include the establishment of ILD affiliates. ILDI would assist them in defining their goals and sources of financing. In the eyes of possible sponsors, ILDI would serve as the provider of a "good housekeeping seal" connoting proven effectiveness. (In this connection, it is recommended that ILD study the experience of ACCION INTERNATIONAL/AITEC.)

The establishment of ILDI would permit ILD management to give its full attention to its think tank function. Seconding technical staff to ILDI payroll would permit training up, on short-term replacement basis, a number of additional professionals experienced in ILD techniques, for the benefit of both. Income received for technology transfer would provide unrestricted funds (to build up working capital, i.a.), as would the shift of payroll now dedicated to international program promotion and supervision.

5.1.2 - National Operations

ILD's research benefits from the practical application of its results in Peru by obtaining feedback, verification, and adjustment. However, the need for improving public services is so great that it could absorb all of ILD's resources. Hence the need for striking a sound balance between research and application. Toward that end, the following recommendations are made:

> Self-Financing.- If ILD launches a service, such as the real property registry, as a free promotion, its durability is fragile. Given the current state of public finance, chances are that soon two unpleasant choices will have to be faced: indefinite continuation of foreign subsidy or termination of the service. It is recommended, therefore, that the initial design of service provision always include significant financial contribution from the beneficiaries. This may be done directly in the form of user fees, as in the successful case of business property registry; or indirectly, by getting the appropriate legislative body to earmark a portion of a tax (as in the case of Regional governments). When the benefit is at first not easily appreciable to the beneficiaries, the charge may have to be supplemented by a partial subsidy, provided that there is a sunset date and promotion of use.

> Targets of Opportunity Fund.- Some of ILD's propositions are quickly accepted by the government. Others, while perhaps applauded in principle, are blocked by vested interests. To put them across, ILD must have recourse to public opinion to a degree which would make it uncomfortable for political leaders to continue to let them fall by the wayside. To do that effectively, ILD must seize opportunities of the moment, when issues are starkly drawn for all to see. E.g., the resignation of Hernando de Soto from his post as presidential adviser, justified as it was by reference to corruption (which was then acknowledged by the President of the Republic), sensitized the public to the corruption issue with which it is, moreover, quite familiar. That was an opportunity for ILD to launch an anti-corruption campaign (which it had been planning for some time). Seizing such opportunities should be encouraged.

Getting publicity is expensive, and the necessary funds are hard to find in long-term general budgets without jeopardizing core activities. It is recommended that the Cooperative Agreement be amended to provide additional AID funding at the level of $ 100,000 per year, for a Targets of Opportunity Fund. To draw on this fund, ILD would present, when the occasion warranted it, *ad hoc* plans for advocacy campaigns, and obtain the funds quickly if approved by USAID/Peru.

> Economists.- Except for the two top managers, at present there are no economists in ILD. This deficiency should be corrected with urgency. Their participation will permit a more balanced program of research, particularly as discussed further below (5.2.1). There is some resistance to this notion among the Research Circle staff who consider economists as "those fellows who just want to measure things". Accordingly, the economists will have to plan to prove their worth, with some assist from management.

Financial Management

Improvements in financial management--both those that have been accomplished and others that are recommended--have been discussed in section 3.3.2 above, to facilitate understanding. What follows is a summary of the recommendations made there in more detail.

> Audit.- It is most urgent the ILD complete the audit for 1990 immediately, and for 1991 before April 30, 1992. ILD's reputation and fundraising outlook are at stake.

> Financial Statements.- To further improve the flow of funds from USAID/Peru, it is recommended that ILD present to USAID trimestral unaudited financial statements without awaiting approval of the previous statement. Any adjustments can either be made retroactively or debiting unrestricted funds.

> Cash Flow Projections. - As the share of non-AID funds accounts for larger portion of income, ILD should prepare twelve-months' total cash flow projections and adjust them monthly, so as to stay on top of the management of available funds.

> Working Capital. - Since the institutional environment in which ILD operates will not permit adequate cash flow management by linear projection alone, it is recommended that ILD accumulate working capital approximating $ 100,000. A special campaign should be carried out to accomplish that, taking into account potential sources such as membership drives, unrestricted donations, earnings of technology transfer fees, income from the sale of publications and training services.

5.2 - OTHER RECOMMENDATIONS

5.2.1 - Market Integration of Informals

ILD's research has been focused on the "demonology" of the legal obstacles which impede access to formality, such as lack of property titles and high transaction costs. No doubt, more can be accomplished along that line, as the recent addition of arbitration as an alternate system of justice demonstrates.

Nevertheless, it may be time for ILD to look beyond the fundamentals of removing legal obstacles. Its experience teaches that sometimes, after being freed of impediments, the informal does not become an active participant in market economy and democratic polity. Since neither a market economy nor a participatory democracy exist in Peru at present, he finds himself at loose ends with his new freedoms. It is not easy for him to use his new property title to take out a popular mortgage if he faces the traditional banks applying to him their traditional procedures.

The same can be said of the farmer who has switched out of growing coca. If he cannot find a profitable market for his coffee beans, he will switch back again. In other words, the Peruvian economy is not just like the one in Holland. Free factor markets are largely absent. Until that has changed, informals will need alternate institutional arrangements which would give them access to credit, banking services, labor, technology, market information, i.a. ILD should investigate alternate private services of access to factor markets.

5.2.2 - Intellectual Contacts

> It is recommended to resume the publication of ILD's bulletin, as planned. Much depends on the definition of the readership. In the past, the bulletin seemed to aim directly at potential donors, giving accounts of ILD accomplishments. It is recommended to ad-

dress, instead, the development community, mainly the experts on whose judgement donors rely. That means that the newsletter should say more about how ILD does what it does than what it has done. It might print mainly by-line articles by ILD researchers on on-going research, occasionally supplemented by inserts giving account of accomplishments.

> International program review conferences in Washington serve well the purpose of maintaining contact with the U.S. intellectual community. In addition, it is recommended to convoke Latin American conferences from time to time. ILD's outreach has been mainly in Central America. A conference held there (not in Peru, so as to prevent overwhelming focus on domestic affairs) would serve to cement relations.

> To maintain its intellectual agility, ILD should not only offer its thoughts to the world, but also be open to them (there is a noticeable tendency among ILD staff to the contrary, deriving perhaps, understandably, from success). One interesting opportunity to broaden horizons is in Central Europe. Czechoslovakia, Hungary, and Poland have been undergoing fundamental transformation (not reform) from centrally planned dictatorships to market-oriented democracies. ILD should send a couple of its top researchers to the area to open contact. Friendly institutions such as ICEG and CIPE could help set up the itinerary. One interesting subject to investigate there would be privatization of services.

5.2.3 - Institution Design

In the design of institutions, it is important that the vision should be an integral one, covering all aspects. In particular, ILD should research, test, and design around the conflicts which may affect the new institution. This would improve the chances that the new institution would not have to become dependent on traditional, bureaucratic institutions and thus lose much of its value. To be stable, the modernity which ILD introduces must be solidly anchored, not adrift in a sea of traditionality and dependent on old-time lighthouses.

Integrated approach to institution design also means doing not only legal and political research, but also psycho-social analysis. This is particularly important to gauge resistance of the bureaucracy to change (which may have complex reasons); to understand the informals' motivations in not accepting certain institutions; or to learn how formality views informality (the irrational dimension will be important). This is not to return to the oldfashioned ways of doing research which turns upon itself, but to integrate the psycho-social dimension into ILD's process of institution design.

5.2.4 - Follow-up

To facilitate constant evaluation of the progress of programs, it is recommended to design a Follow-up System with the active participation of the Research Circles, using the following guidelines:

> Conceptually, build on the existing modality of ILD's organization and administration--management by objective. Incorporate the techniques suggested in AID's memorandum "Program Performance and Output Indicators" which is available from USAID.

> With the greatest possible precision, define objectives and measurable outputs. Redefine them as work progresses.

> Use quantifiable indicators whenever possible, taking care that data should be solidly supported.

> Stratify groups in accordance with socio-political and cultural characteristics relevant to the ILD program involved. As a point of departure, the groups might include high government officials; middle- and lower level bureaucracy; political and labor leaders; opinionmakers; beneficiaries (actual or potential).

5.3 - GLOBAL RECOMMENDATION

In early 1992, the evaluation team of TRUITT ENTERPRISES, INC. carried out the Threshold Evaluation requested of it by USAID/Peru, as specified in the Scope of Work (Annex I).

The findings are overwhelmingly positive. It is recommended that AID continue its Cooperative Agreement with ILD, and that it commit funds towards that end in accordance with the established schedule.

Evidence shows that ILD has achieved quantitatively significant results during 1989-1991 in terms of giving legal security to informals by registering their real property titles, and simplifying the legalization of their businesses. The quality of its research that led to these reforms as well as the development of other institutional improvements such as democratization of government decisionmaking and arbitration as an alternate system of justice, has been recognized. ILD has received extraordinary attention from the press and opinion leaders both domestically and internationally. This is due to the excellence of its advocacy and facilitation of the integration of the informals into the political society and the economy.

Mid-way through the Cooperative Agreement, it will be appropriate to make some adjustments in course that are indicated by experience. It is recommended to give a separate organizational structure to the international technical assistance operations of ILD.; this will make possible its growth without jeopardizing the fundamental responsbility of ILD which is research and advocacy. Similarly, ILD's domestic technical assistance operations, essential as research laboratory, should put greater emphasis on the institutionalization of change by self-financing, decentralization, and constructive engagement of the bureaucracy. Research should explore new horizons, such as bringing forth alternate factor markets and other institutional arrangements that would integrate informals into the economy. To encourage ILD to stress policy over technical services, AID should provide additional funds for a Targets of Opportunity Fund for timely public advocacy.

ILD has complied with most of the covenants agreed to in the Cooperative Agreement. The significant exception which should be corrected with urgency is the audit report for 1990. It must be acknowledged, however, that ILD's administration and financial management have improved considerably. Substantial innovations such as the new computerized accounting system bode well for the future.

Subsequent to the Threshold Evaluation, in accordance with Section III.A, Attachment 1 to Amendment No. 5 to the Cooperative Agreement, ILD should "submit a revised implementation plan that will describe ILD's activities and detailed budget requests for the last three years of the Cooperative Agreement and the Annual Implementation Plan for Year Four."

A healthy relationship has developed between the Mission and ILD on the administrative as well as substantive levels. Any adjustments that need to be made will be easier to make because of that.

5.4 - AMENDMENT OF THE COOPERATIVE AGREEMENT

In view of the flexible USAID/ILD relationship, it seems unnecessary to make wording changes in the Cooperative Agreement where agreed practice has strayed from the original textual matrix in negligible ways.

However, to signal the importance of the major changes that have been recommended by this evaluation, if accepted, it will be appropriate to issue an Amendment, preferably together with committing funds for the fourth year of the Agreement. The recommended text is as follows:

[With reference to Amendment No. 5, delete the last paragraph of chapter I as well as paragraphs II.B.4 and 5, and section II.C, and add a new section II.C:]

C. International Affiliate

To facilitate the expansion of technical assistance activities abroad, ILD will concentrate their supervision and promotion in a separate Division. Further, it will set in motion the conversion of this Division into a separate but affiliated legal entity as soon as practicable.

When an international affiliate has been legally established, ILD will negotiate a cooperative agreement with it. The agreement will provide the framework for the exchange of services and payments between the two organizations. ILD will provide administrative support and TDY personnel. The international affiliate will defray the cost of such support and personnel, and promote, negotiate, finance, and implement all ILD-related technical assistance activities in foreign countries.

[Add a new paragraph at the end of Section II.D.2:]
The Mission will maintain a Targets of Opportunity Fund to which additional funding may be allocated for the purpose of strengthening ILD's capability for public advocacy. ILD may draw on this fund by presenting individual campaign plans for approval.

[Add a new paragraph III.B.6.g:]
to conduct a special fundraising campaign for the purpose of establishing a working capital fund of not less than $ 100,000. Once established, the fund will be used only for cash flow stabilization purposes.

ANNEX I

SCOPE OF WORK

Threshold Evaluation
Scope of Work

I. Purpose

USAID/Peru is planning the Threshold Evaluation for the ILD Cooperative Agreement. As stipulated in the Cooperative Agreement, near the end of the first three years of the agreement, A.I.D.- acting through USAID/Peru and AID/W (LAC/DI) - will conduct a joint evaluation with the ILD to assess the progress made toward meeting the described purpose, goals, and objectives established in the Cooperative Agreement and the annual implementation plans. From this evaluation, and subject to the availability of funds, A.I.D. and ILD will set forth mutually acceptable goals, timetables, performance indicators and budgets for the activities and programs to be carried out during the remaining years of the Cooperative Agreement.

II. Task

To achieve the above objectives, the evaluation team will assess the impact of the ILD's reform programs carried out during Years 1,2 and 3 of the Cooperative Agreement. The team will also evaluate the ILD's administrative and financial management of the Project. This component includes the assessment of the extent to which ILD has taken steps to become more financially self-sufficient. Finally, the evaluation team will also review ILD's proposed activities for Years 4 to 6 of the Project and make recommendations on the advisability of continuing A.I.D.'s support under the Cooperative Agreement.

A. Assess ILD's Mission and Overall Effectiveness

1. Program Impact
   (Wherever possible, the assessment should show quantified progress)

   a. Assess ILD's national programs in terms of quantitative and qualitative indicators such as: press coverage, interviews with persons affected by ILD's ongoing reform programs, public feedback and the turnout for dissemination activities such as public hearings.

   b. Assess the progress of ILD's international programs in terms of responsiveness of other developing countries to the ILD paradigm . Activities should include the assessment of:

      - the ILD newsletter in terms of the development of an international network of like-minded individuals and institutes;

      - training programs in terms of orienting policymakers and research institutions in other countries on the ILD approach to institutional reform and the informal sector;

      - Annual Conference to present the ILD's reform programs and to get feedback for upcoming programmed reform initiatives; and,

- Technical assistance in terms of the progress of other countries in adopting the ILD institutional reform methodology and the degree to which other country experience is tested against the ILD paradigm for development.

c. Assess the degree of incorporation of gender consideration analysis into the ILD reform programs.

d. Evaluate the work of International Coordinator on facilitating ILD's contact with international donors, maintaining dialogue with US academicians and the international development community, providing information to other groups and coordinating logistical arrangements for consultants.

e. Assess the impact of the ILD International Conference in terms of providing sufficient feedback and additional cross fertilization of ideas for its research activities.

2. Program Management

a. Assess the ILD's progress in carrying out the activities proposed in the Project's first three year implementation plans including specific annual goals, annual and semiannual reports, objectives, outputs, work timetables, procurement plans, staffing and hiring plan and cash flow projections.

b. Assess the management of the ILD's research and implementation activities in terms of the current and future roles of the Institute as a generator and/or implementor of ideas.

c. Assess the progress towards institutionalizing reforms in terms of "spinning off" the reform (implementation) programs to a new or existing entity in Peru.

d. Assess the degree that the ILD is managing its human and financial resources in terms of efficiently allocating resources between international and national programs.

e. Assess the degree that the ILD's organizational structure facilitates carrying out its workload and is responsive to the dynamic and evolving needs of the Institute.

f. Evaluate USAID/Peru and AID/W's participation in project implementation with regard to the coordination, monitoring and approving functions established in the Cooperative Agreement.

g. Assess the coordination between USAID/Peru and the ILD in terms of managing the Cooperative Agreement with the addition of the USAID/ILD Project Coordinator.

h. Assess the degree that the Personnel Policy has complied with AID requirements and has sufficiently solved personnel/salary-related issues.

3. Financial Management

a. Assess the degree of progress made towards diversifying the sources of funding for ILD activities in terms of economic sustainability of the Institute and as an indication of other Institution's acceptance of ILD's approach and success.

b. Ascertain ILD's progress in its revenue diversification plan, to reduce ILD's dependence on AID to less than 50% of its annual total budget by the fifth year of the project.

c. Ascertain compliance with covenants included in the Cooperative Agreement regarding bank accounts, accounting records, financial statements and auditors recommendations.

d. Assess the degree of coordination for the flow of AID funds to ILD and the liquidation remittances from ILD to AID, in respect to constraints identified at the end of the first year evaluation.

e. Assess the extent to which the new accounting systems is facilitating better control and information for the ILD's international and external submission of accounting and financial records.

B. Review ILD's future plan/activities

1. Review the implementation plans and budgets submitted by the ILD for the project's last three years of the Cooperative Agreement and determine consistency with the project's overall goals and objectives.

2. Develop a framework for assessing the ILD's progress toward achieving the project's purpose, goals and objectives by establishing specific outputs, targets and performance indicators to be used as major guidelines for evaluation purposes of the final three years of the Cooperative Agreement.

3. Review the language of the existing Cooperative Agreement to determine whether any amendments are required.

C. Recommendations

1. Identify major problems in the above-mentioned areas of assessment and recommend corrective actions.

2. Make any other recommendations that the evaluation team may deem necessary to improve project implementation and impact.

3. Provide an overall statement concerning the feasibility of continuing with the Six-Year Cooperative Agreement.

III Proposed Team

The evaluation team will be formed by an experienced U.S. management consultant as team leader, and two local experts in the areas of institutional reform and financial management analysis. Representatives of AID-LAC/DI-DR, USAID/Lima and the ILD will work with the evaluation team to provide information about the project and feedback on the team's work.

IV. Evaluation Schedule and Reports

The Evaluation team will work in Lima from o/a January 27, 1992 to o/a February 20, 1992. By o/a February 14, 1992, the Chief of Party will submit a final report to USAID/Peru and ILD for comments. USAID/Peru and ILD will have comments and observations returned to Chief of Party o/a February 18, 1992. The Chief of Party's departure from Peru will be contingent upon USAID/Peru clearance of the final draft o/a February 20, 1992. A final report will be submitted one month after clearance of the final draft. Final payment to the Chief of Party will be subject to the submission of the final report with 20 copies in English.

V. Relationships and Responsibilities

The Chief of Party will receive technical direction from USAID/Peru's Democratic Initiatives Division as well as the LAC/DI-DR TDY Adviser. The Chief of Party will be responsible for organizing and editing the final report to USAID/Peru's satisfaction.

The Chief of Party (COP) will be responsible for selecting and contracting the two local consultants of his/her team. USAID/Peru will assist providing names and CVs of candidates . The contracting of the selected team members by the COP will be subject to the prior approval by USAID/Peru.

The COP must include in the text of the contracts for the team members, a provision indicating that USAID has no direct obligations whatsoever with them.

VI. Performance Period

A. Level of Effort

A level of effort of 62 professional person/days is estimated. The total effort is expected to be completed by no later than o/a March 20, 1992 with the submission of the final report to USAID/Peru. Work is expected to begin o/a January 27 with the commencement of service of Chief of Party and the two additional professionals to be contracted by him/her.

The Chief of Party will dedicate eleven days to meet with ILD officials and write a first draft report based on his/her and the other two local professionals' research. The Chief of Party will begin work in Lima o/a January 27, 1992 and will continue work in Lima until USAID/Peru acceptance of final draft report by USAID/Peru o/a February 20, 1992.

The Chief of Party will devote the last four working days to produce the final report and send it to USAID/Peru no later than o/a March 20, 1992.

B. Work Days Ordered

Position	Work Days
U.S. Lawyer, Business Administrator or Specialist in Public Administration	25
Local Consultant (Financial Analyst)	18
Local Consultant (Political Scientist)	18
Total	61

ANNEX II

ILD PARADIGM

THE ILD INSTITUTIONAL REFORM PARADIGM

The Problem: Peru is predominantly a mercantilist[1] system that has little in common with modern market economies which are supported by transparent, accountable institutions. The law that emerges from Peruvian institutions is inefficient, incoherent, and full of costly red tape. The absence of good law and the proliferation of bad law stifle creativity and deter economic development of the country and its people.

Outside of the formal system operates the informal sector, reflecting a market economy that responds to the demands of the majority, the poor. However, the informal economy functions imperfectly because the natural entrepreneurship in the informal sector is severely constrained by its lack of adequate formal political and legal institutions[2] to provide incentives and benefits. In response, the informals have created their own extra-legal norms and organizations and operate outside the margin of the law. In this sense, while informality is a symptom of the institutional crisis confronting poor countries, the rule making of informal organizations is potentially the source of many of the solutions to that crisis.

The Prescription: Restructure the apparatus of the State to encourage participation of all members of society, not just an elite few, in the political and economic life of the country. To achieve this, self-sustaining political and legal institutions must be created to carry out reforms in three areas. First, economic reforms must be carried out to secure property rights and encourage competitive market forces, including accessible credit. Second, political reforms must provide mechanisms to ensure transparency, accountability and feedback in the rule making process of government, and decisions regarding public finance investment. Finally, judicial reforms are needed to guarantee and uphold the personal and property rights of all citizens. Through these reforms, the ILD prescribes the transition from mercantilism to democratic and market-oriented development.

The ILD carries out reforms to restructure the apparatus of the State in a 10 - step process. This process includes researching institutional reforms, proposing reform legislation, and putting reform programs into operation.

---

1 Mercantilism is the pursuit of economic privileges through clandestine, or non-transparent, political institutions.

2 Political and legal institutions are those mechanisms through which rules and laws are created and enforced.

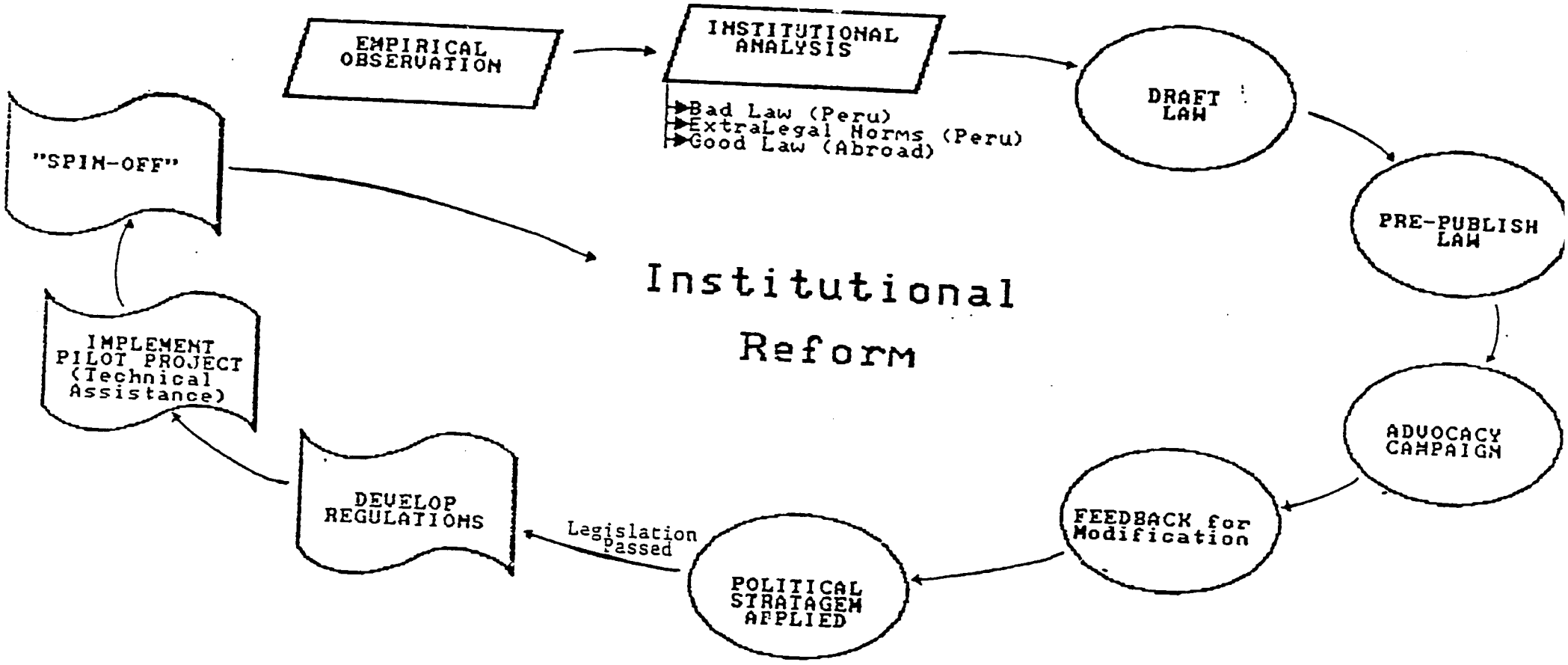
THE ILD INSTITUTIONAL REFORM PROCESS

Reform Research Phase: Research begins with (1) empirical observation of institutional short-comings in terms of public access to the political and economic life of the country. Once deficiencies are identified within economic sectors, the ILD begins a three step process of (2) institutional analysis. First, the extent of the failure of the legal institutions in Peru to respond to the needs of the informal majority is analyzed (i.e. bad laws in Peru are identified and reviewed). Second, a determination of how the extra-legal system which the informals have created helps to offset that failure is made (i.e. extra-legal norms in Peru are identified and assessed). Third, the ILD examines institutions created by other countries which successfully confront problems similar to those found in Peru (i.e. relevant laws from developed countries are identified and analyzed). Once these analyses are complete, the proposed reform is mapped out, defining basic changes to improve the institutions that affect economic activity and the rulemaking process in general.

Reform Legislation Phase: A preliminary reform proposal is vigorously debated within ILD and feedback from experts is solicited and incorporated into (3) draft legislation. The proposed legislation is (4) pre-published in the national register (El Peruano) and written comments on the law are requested from concerned citizens within thirty days. This process is supported by an on-going (5) advocacy campaign to educate the public about the proposed reform, and to mobilize support. This is accomplished with press conferences, television spots, newspaper ads and articles, radio programming, posters, flyers, etc. Similarly, a series of public hearings are held with politicians, professionals, special interest groups, and the general public. These meetings provide an opportunity for the ILD to directly respond to questions and to generate (6) feedback on the proposed legislation. At the same time, a (7) political strategy is employed to present the reform in a manner that is appealing to government interests. After modifications are incorporated into the reform, the law is proposed to the Congress or the Executive Branch. Advocacy programming continues until the final legislation is passed, in order to maintain public and political leverage for the reform.

Reform Implementation Phase: The ILD found that getting new laws on the books is not enough to ensure that the reform is put into operation. (8) The ILD assists in drafting regulations to get the new law "off the books" and into action. Similar to the passage of the law, feedback is solicited from the public and incorporated into the regulations. Once the regulations are passed, the ILD provides (9) technical assistance to counterpart agencies (public or private) who will ultimately be responsible for implementing the reform. The ILD works with the counterpart agency, to organize, conduct and evaluate the pilot programs that precede full scale implementation. Public education programming complements all of these steps, informing the public on the benefits of the new reform and how they can use it. Over time, the ILD (10) "spins off" the implementation of the reform to the counterpart agency. Institutional reform is secured when the reform is sustained without the ILD's direct involvement.

INSTITUTIONAL REFORM PROCESS



Phase I: Reform Research 0 Phase II: Reform Legislation Phase III: Reform Implementation

ANNEX III

ONE- AND THREE-YEAR OBJECTIVES

DEMOCRATIC DECISION MAKING PROGRAM

1 YEAR OBJECTIVE:	3 YEAR OBJECTIVE:
I. IMPLEMENTATION	
A. Using RENOM, initiate project to create a "showcase" region that will contain all of the DDG mechanisms, o Recruit and hire local RENOM project manager. o Install project office in Chiclayo. o Determine relevant topics no less than three and submit to public debate.	A. Complete "showcase" project in RENOM and put into operation all DDG mechanisms (access to public info, popular initiatives, administrative control of decision-making, accountability). B. Decentralize authority by creating pressure on Congress and the Executive to delegate authority to the regions for areas that can be more efficiently managed and controlled at the regional level (ex. interegional transportation, education, health, agriculture). C. Establish democratic rulemaking procedures as a criteria in the appropriations process from the regional to the municipal level in order to create a financial incentive among municipalities to adopt DDG. (ie: a munic. must have democratic rulemaking in order to get funds). D. To create a permanent task force which will prepare cost-benefit analyses on draft legislation, with the purpose of forming constituencies for national implementation of DDG and creating Congressional awareness of public opinion regarding their decisions /votes. (vote motive).
II. RESEARCH	
A. Capture the processes of informal rulemaking by conducting field research to determine: o The reasons and processes by which informal authorities are removed from power. o How accountability mechanisms work.	A. Create an inventory of ways, channels, and procedures of public participation and government feedback from a group of selected democratic countries (U.S., Germany, Japan, Switzerland) and match these with our political and legal framework, determine which may be useful, and submit these ideas to public discussion.

1 YEAR
OBJECTIVE:

- If there is a correlation between levels of participation in informal organization and the level of services they are trying to acquire.

B. Systematize the information already obtained on the decision making procedures in the informal organizations.

ADMINISTRATIVE SIMPLIFICATION PROGRAM

GENERAL OBJECTIVES:	1 YEAR OBJECTIVE:	3 YEAR OBJECTIVE:
I. To reduce the costs of compliance with bureaucratic and business regulation.	To extend the Unified Registry to 6 of the 12 Regional Governments in Peru.	To extend the Unified Registry to 10 of the 12 regions and spin off it's operation to the Goverment
	To simplify the Municipal Business License procedure in 10 municipalities.	To simplify the Municipal Business License procedure in 30 municipalities.
	To design a municipal "showcase" with simplified procedures for all interface between the govt. and the citizens.	To implement the "showcase" pilot plan for simplified municipal procedures.
	To complete draft legislation for simplifying the procedure for obtaining limited liability.	Engender public debate to ensure passage of legislation for simplifiying the procedure to obtain limited liability.
	To draft legislation to create a Unified Registry of Civil Associations for NGO's.	To implement a Pilot Project for the Unified Registry of Civil Assoc. by completing software design and obtaining gov't approval.
	To fulfill the Agreement for technical assistance in Administrative Simplifica- tion in Honduras.	To design and achieve passage of complementary legislation to simplify several other areas of bureaucratic administration (incl: foreign trade, transport)
		To export "Administrative Simplification" to 2 Central American countries.

II. To create communication mechanisms between the Government and its citizens.

II. To update the system of complaints used by the Administrative Simplification Tribunal and to create an institution (ex. ombudsman) for its ongoing operation.

III. To demonstrate that economic development and environmental protection can both be achieved w/o costly overregulation in a market economy

III. To draft a basic document and create public debate on how the environment can be efficiently protected if there are reliable property rights, an efficient system of extra-contractual responsibility (torts) and clear objectives for environmental protection.

III. To engender debate and influence public opinion on the project. To draft legislation as a result of public debate.

PROPERTY RIGHTS PROGRAM

1 YEAR OBJECTIVE:

Improve performance of Lima Property Registry, specifically:

- Obtain capital to secure locale and equipment; and for working capital.
- Prepare workshops and training manuals to train personnel; provide on-going legal and technical advice.
- Develop the additional regulations and/or laws which will simplify the Property Registry 's operation, for example, with municipalities and ONARP (the Public Registries).
- Complete outstanding commitments to our "customers" for example the municipalities and grassroots organizations.
- Publicize further the Property Registry and the Popular Mortgage in order to reenforce the Registry's image and the benefits it offers.

Implement the Property Registry in El Salvador which will require:

- Research into local law in order to align it with Property Registry.
- Putting the Property Registry into operation.
- Providing technical assistance.

Do research on computer systems in order to perfect Property Registry's graphic software; and install new software.

3 YEAR OBJECTIVE:

Research domestic and international systems for chattel mortgage registry for Peru.

Conduct research to identify the obstacles to obtaining credit within Peru's commercial financial system.

Conduct research and develop impact studies to show the ways in which secure property rights:

- Benefit the environment.
- Reduce the need to grow coca.
- Reduce violence.

Install Rural Property Registry in RENOM, to include:

- Provision of technical assistance.

1 YEAR OBJECTIVE:

Develop prototype materials as the means to present and "sell" the Property Registry, to include training manuals for use of software; registration procedures; legal procedures; and operation of pilot programs.

Install Rural Property Registry in RENOM, to include:

- o Installation of software.
- o Training of personnel.
- o Implementation of pilot program.

Install Rural Property Registry in Ica and Piura which involves for <u>each</u> region.

- o Locating locales and installation of computer systems.
- o Training of personnel
- o Implementation of pilot program.
- o Award of 5,500 titles in Ica.
- o Award of 6,500 titles in Piura.
- o Provision of technical assistance.

COORDINACION DE PROGRAMAS NACIONALES E INTERNACIONALES

I. PROGRAMAS OBJETO DE COORDINACION

SUPERVISION

1. Registro Social de Inmuebles de El Salvador. Convenio suscrito con el Gobierno de El Salvador.

2. Simplificacion Administrativa - Honduras. Convenio suscrito con el CONEP.

3. Programas de Registro Unificado, DDG y Registro Predial en RENON. Convenio suscrito con el Gobierno de la RENON.

PROYECCION

4. Consolidacion del Registro Predial en Lima.

5. Extension Nacional del Registro Predial.

6. Registro Inmobiliario y Registro de Sociedades en Nicaragua.

7. Registro Predial en Indonesia y Panamá.

II. OBJETIVOS A DESARROLLAR EN UN AÑO

1. Desarrollar y establecer el modelo empresarial que se empleará para la extension masiva del Programa del Registro Predial, con el fin de establecer la "industrialización" de dicho producto, su rápida implementacion y la percepción de recursos propios para el ILD.

El cumplimiento de dicho objetivo se verificará con el establecimiento efectivo de dicho modelo empresarial.

2. Cumplir con los resultados programados en lo convenios de asistencia técnica que actualmente se encuentran en ejecucion:

Internacionales

- Registro Social de Inmuebles de El Salvador
- Simplificación administrativa en Honduras

Nacionales

- Convenio con la REHOM.

- Convenio con la Región Arequipa.

3. Desarrollo del Programa de Consolidación del Registro Predial de Lima. Este programa es fundamental para

- Culminar con la titulación y registro de una circunscripción nacional de importancia como Lima.

- Emplearlo como centro de entrenamiento para los registradores de las demás regiones del país.

- Acumular la experiencia adicional necesaria para la extensión a otras regiones del país.

- Reavivar el interés de las regiones (y las zonas cocaleras) por contar con el registro.

- Perfeccionar el sistema de cómputo para adecuarlo a una utilización a nivel nacional.

4. Presentación y eventual negociación y acuerdo de un Programa de Reforma del Registro de la Propiedad Inmueble y del Registro de Sociedades en Nicaragua.

5. Desarrollo de un "Manual de Coordinación de Programas" que contengan la descripción pormenorizada de las etapas para la implementación, puesta en marcha y extensión del programa de Registro Predial. Dicha descripción incluirá las actividades, plazos, responsables, recursos humanos y materiales correspondientes a cada Etapa.

La finalidad de dicho manual no es didáctica (como en el caso de los manuales de entrenamiento) sino más bien gerencial, en la medida que se destinará a programar y controlar el cumplimiento de la implementación, puesta en marcha y extensión del programa aludido.

III. OBJETIVOS A DESARROLLAR EN TRES AÑOS

1. Desarrollar "Manuales de Coordinación de Programas" para los programas de Simplificación Administrativa y Democratización de las Decisiones de Gobierno.

2. Presentación de propuestas, negociación y ejecución de los siguientes programas:

Internacionales

- Programa de Reforma de los Registros Inmuebles y de Sociedades en Nicaragua.

- Programas de Registro Predial en Indonesia y Panamá.

- Programa de Extensión Nacional del Registro Predial.

INTERNATIONAL PROGRAMS: MARKETING

One Year Objectives

1. Raise $1.265 million in fulfillment of AID matching requirement for Year 3.

2. Develop resource generation strategy which will fulfill AID requirements for matching funds by end of Year 5.

3. Develop communications strategy for use inside and outside of Peru, to include

   a. restructured ILD Newsletter and a regular publication schedule for 3 issues/year, and

   b. closer collaboration with ILD public relations staff

4. Prepare brochure to elucidate ILD mission and objectives.

5. Develop prototype proposals for each of ILD program areas, DDG, Administrative Simplification, Property Rights and Arbitration.

6. Develop program ideas to enhance ILD's international image and to increase ILD's professional staff career development. As examples, two ideas to be developed for discussion within ILD are

   a. Collaborative relations with foreign academic and research centers, which could include a fellowship program component to bring young academics from other countries to work for periods of up to one year within the ILD.

   b. ILD career development program whereby professional staff would be supported for short term courses in Peru or abroad in order to broaden their perspective on issues and policies which impact on their ILD activities.

7. Complete "how to" guide on preparation of funding proposals and reports.

8. Complete donor/prospect database, in collaboration with ILD computer center.

Three Year Objectives

1. Raise $1.735 million and $2.214 million in matching funds during Years 4 and 5 of AID agreement, for a total of $3.949 million.

2. Broaden ILD's financial support base to include no less than 10 new donors.

3. Secure funding for programs proposed in 4a and 4b of One Year Objectives.

4. Develop concept for a "seed money" fund which will allow the ILD to exploit windows of opportunity to implement pilot projects or to develop program ideas in response to political openings; and secure funding for same.

5. Strengthen ILD's image inside and outside of Peru by means of targetted use of ILD publications, articles, interviews, appearances by ILD president and staff.

PROMOCION & DIFUSION

Los objetivos permanentes del Area de Promoción & Difusión son, principalmente, tres:

1. Difundir la imagen y las propuestas del ILD a través de los medios de comunicación.

   Para difundir y promover las reformas institucionales que propone el ILD, el Area de Promoción & Difusión está en permanente contacto con los círculos de investigación para conocer el avance de los distintos proyectos y así darlos a conocer a la opinión pública. Los mecanismos usuales para acceder a los medios de comunicación son:

   . Publicación de artículos de opinión en las páginas editoriales de los diarios más importantes, artículos que son firmados por los investigadores del ILD o por los propios miembros del Area de P&D.

   . Gestionar entrevistas a los investigadores del Instituto, creando expectativa en los medios de comunicación por los proyectos del ILD.

   . Participación de los miembros de ILD en diferentes paneles organizados por los medios de comunicación, cuando se trata de temas relacionados con las investigaciones del Instituto.

2. Sistematizar la información proveniente de los medios de comunicación.

   Con el fin de generar un proceso de retroalimentación que permita mejorar las propuestas de los círculos de investigación, se hace un seguimiento de la información aparecida en los medios de comunicación, con la que se arma un panel de información diaria. Una vez exhibida, la información se archiva clasificada en el Centro de Documentación & Información.

3. Llevar las relaciones públicas e institucionales del ILD.

   El área mantiene relación permanente con los medios de comunicación más representativos (TV, prensa escrita, radio), contacto con políticos, empresarios, académicos y, en general, con todas aquellas personas e instituciones influyentes en la opinión pública.

El área está involucrada directamente en todas las iniciativas de reforma, ya que trabaja en coordinación con

la Presidencia del ILD para diseñar y desarrollar campañas de promoción y difusión de las mismas. Esta tarea, en la práctica, conjuga los principales objetivos del Area anteriormente descritos. Para desarrollarla, P&D tiene a su cargo:

a. Publicaciones (notas de prensa, avisos).

b. Organización de eventos públicos: Audiencias Conferencias / Seminarios.

c. Producción de spots de TV y radio.

d. Centro audio-visual (archivo de 81 casetes de audio, 104 casetes de video, y 300 fotografías).

e. Materiales promocionales diversos (boletines, trípticos informativos, afiches, volantes).

f. Elaboración de presupuestos para campañas promocionales y concepción de las mismas.

OBJETIVOS PARA 1993

Los objetivos que el Area espera alcanzar en los próximos doce meses son los siguientes:

a. Producción de un boletín semanal interno para todo el personal, que recoja lo más importante de la información de prensa vinculada al ILD, así como avanc es del trabajo en las diversas áreas del Instituto.

b. Producción de un video de presentación general del ILD, su filosofía, sus proyectos y los trabajos realizados.

c. Preparación de un folleto (o trípticos) de presentación del ILD, su filosofía y proyectos.

d. Preparación de un informe mensual de las investigaciones y actividades del ILD para ser distribuido a los distintos medios de comunicación.

e. Elaboración de un Estudio de Opinión sobre el ILD y sus propuestas para detectar el nivel de conocimiento y aceptación de estos en los diversos sectores sociales.

OBJETIVOS PARA 1995

Los objetivos que el Area espera alcanzar en los próximos tres años son los siguientes:

a. El punto d. de los Objetivos para 1993 es un anticipo de la publicación de una revista de análisis y propuestas editada por el ILD, de circulación nacional, cada dos meses.

b. Producción de un micro-programa de radio para divulgar las investigaciones y propuestas del ILD.

c. Producción de un micro-programa de televisión para divulgar las investigaciones y propuestas del ILD.

d. Publicación del documento memoria de los 15 años del ILD.